IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.2090 OF 2006

Hitesh Pravinchandra Shah .. **Petitioner**

Versus

The State of Maharashtra
(At the instance of the
Superintendent Nashik Road
Central Prison, Nashik) .. **Respondent**

Mrs. S.A. Dhamale for the Petitioner
Mrs. A.S. Pai, APP for the State

CORAM : S.B. MHASE,
& S.R. SATHE, JJ.
DATED : 10th NOVEMBER, 2006

P.C. :-

Parole order was passed by the respondent. Petitioner was on parole for a period of 30 days from 23/12/2003, he should have surrendered on 23/01/2004. However, he surrendered on 09/10/2004 and thus he overstayed for the period of 260 days. Therefore notice was issued to him.

He did not reply to the said notice. Taking into consideration the fact that he overstayed for the period of 260 days and ratio of punishment which is 1:5, the Superintendent of Prison forfeited 1300 days of earned remissions. The said order was sanctioned by DIG on 21/09/2005 and thus thereafter,the punishment

has come into force.

There is no dispute over the fact that the petitioner has overstayed for a period of 260 days. However, learned Counsel for the Petitioner submitted that the maximum punishment was imposed without getting a sanction from the Competent Authority. However, the said submission is without any merit, because in the order passed by the Superintendent of Jail, Central Prisoner, Nashik it is categorically stated that the punishment will come into force after getting judicial approval, and accordingly, subsequent sanction has been given and thereafter punishment has come into force. And therefore it is not the case as alleged by the learned counsel that the punishment was imposed without getting any sanction as required under the Rules.

Learned Counsel further submitted that Petitioner was suffering from illness and therefore did not surrender in time. However, the said submission was without any merit because there is no evidence brought on record either by way of medical certificate to demonstrate that petitioner was ill or that it was not possible for him to surrender. If the reason of illness simply is accepted today then for every accused it will be a good ground to overstay and to misuse the facility of parole. We find no substance in the petition. It is

hereby rejected.

(S.R. SATHE, J.) ***(S.B. MHASE, J.)***